**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CIVIL APPELLATE JURISDICTION**

**FIRST APPEAL NO. 368 OF 1993**

The State of Maharashtra ..Appellants

versus

1. Kesharlal Shamlal Kasliwal
2. Uttam chand Shamlal Kasliwal
3. Swarupchand Shamlal Kasliwal ..Respondents

Mr. S. N. Gawade A.G.P. for the Appellants.
None for the Respondents.

**CORAM : D. G. DESHPANDE,J.**

**DATE : 17H JANUARY,2005**

**ORAL ORDER :**

1. Heard learned AGP for the Appellants - State, who has filed this appeal challenging the enhancement of compensation. Nobody is present for the respondents.

2. The Notification under Section 4 in this case came to be issued on 1.7.1982. It was in respect of 34 Are land of the claimants - respondents. The date of Award is 31.8.1982. SLAO has granted compensation at the rate of Rs.3000/= per hectare. Reference was made by the claimants

claiming Rs.25,000/= per hectare and the lower court granted Rs.18,000/= per hectare.

3. My attention was drawn by the learned AGP to paragraph 8 where the court has discussed the evidence of the sale instances and the judgments. In that case the notification was of 1977 and in the judgment therefore the price of the dry land were fixed at Rs.7,500/- per hactare and for bagayat land was fixed at Rs.15,000/= per hecatre. The claimants relied upon three sale instances, Exhibits 24, 29 and 35. Price of the land in those sales instances was Rs.29,000/=, Rs.21,000/= and Rs.26,000/=. However, the learned AGP contended that all these lands were bagayat land and therefore those sale instances should not have been taken into consideration.

4. It appears from the judgment that the lower court has also accepted the difference between the type of the land i.e. claimants land being dry crop land and the land under the three sale instances being bagayat land. However, the court noticed that if in 1977 as per Exhibit 46/2 the price of dry land were Rs.7,500/= per hectare then there was tendency of increase or escalation in the price and therefore the court held in paragraph 11 as under:

> The average of the prices of the bagayat lands as evidence of three sale instances (Exhs. 29, 35 and 24) comes to Rs.25000/- per hectare. If the price of the bagayat land or the irrigated land of this village at the time of the relevant notification under section 4 was Rs.25000/- in my opinion Rs.18000/- per hectare for the acquired land should be treated as proper price..."

It was this reasoning that was given by the court below for enhancing the compensation from Rs.3,000/- per hectare to Rs.18,000/- per hectare.

5. The learned AGP contended that this is not a logical reasoning for enhancement and at any rate if in 1978 price of dry land as per the judgment of the courts Exhibit 46/2 was Rs.7,500/- per hectare then in 1982 it can be at the most Rs.10,000/= and increasing the compensation by six times from Rs.3,000/= per hectare to Rs.18,000/= per hectare, was not at all justified.

6. I find considerable force in the submissions of the learned AGP. In 1978 the price of dry land was Rs.7,500/- per hectare and therefore in 1982 granting escalation at 10% it would come between Rs.11,000/= to Rs.12,000/= per hectare but there is

no justification for enhancing compensation at Rs.18,000/= per hectare. Therefore this appeal is required to be partly allowed. Hence, order:

**ORDER**

. Appeal is partly allowed. Compensation awarded to the claimant is reduced from Rs.18,000/= per hectare to Rs.12,000/= per hectare. Rest of the order to remain the same. No order as to costs.

17.1.2005 (D. G. DESHPANDE,J.)

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